

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION**

JERRY LEON DEES, JR.,

Plaintiff,

V.

**HYUNDAI MOTOR MANUFACTURING
ALABAMA, LLC, and HYUNDAI MOTOR
AMERICA, INC.,**

Defendants.

CIVIL ACTION NO.:
2:07-cv-00306-MHT-CSC

**DEFENDANTS' DISCLOSURE RELATED TO FAMILIAL RELATIONSHIP
BETWEEN POTENTIAL WITNESS AND THE TRIAL JUDGE**

Defendants Hyundai Motor Manufacturing Alabama, LLC (“HMMA”) and Hyundai Motor America, Inc. (“HMA”) (collectively “Defendants”), through undersigned counsel, files this pleading to serve as a disclosure to both Plaintiff Jerry Leon Dees (hereinafter “Plaintiff”) and to the Court regarding the familial relationship (as they understand it) between Greg Kimble, a potential witness in this action, and the Honorable Myron H. Thompson, the trial judge assigned to this case. Defendants further state:

A. Relevant Facts / Procedural History

1. Plaintiff is a former HMMA employee. Before beginning a medical leave of absence, Greg Kimble was actively employed as the Human Resources Director of HMMA. It is undisputed that there is an overlap of common dates of employment between Plaintiff and Mr. Kimble.

2. Mr. Kimble began a medical leave of absence on or about January 12, 2007, and Mr. Kimble currently remains on “Leave of Absence” status. See Doc. 68, Exh. 7, Second Decl. of Wendy Warner at para. 7.

3. The decision to terminate Plaintiff’s employment was made on or about February 26, 2007, approximately six weeks after Mr. Kimble began his leave of absence. It is undisputed that Mr. Kimble played no role in the decision to terminate Plaintiff’s employment.

4. However, in deposition, Plaintiff testified that had the following alleged interactions with Mr. Kimble which, depending on the Court’s rulings on Defendants’ pending dispositive motion, may be relevant to anticipated presentation of evidence at the trial of this case:

- Plaintiff alleges he made complaints to Mr. Kimble regarding problems he was having at HMMA;¹
- Plaintiff alleges he sent Mr. Kimble an e-mail regarding Greg Prater harassing him about Guard Duty;²
- Plaintiff alleges he met personally with Mr. Kimble to discuss his complaints relating to Prater at Guard Duty;³ and
- Plaintiff alleges his Sergeant sent Mr. Kimble a letter regarding Guard Duty.⁴

5. Should the Court decide that some part or all of the Plaintiff’s USERRA claims survive summary judgment, then Plaintiff’s alleged interactions with Mr. Kimble may be relevant to both Plaintiff’s claims and Defendants’ defenses at trial.

6. Out of an abundance of caution, Defendants have listed Mr. Kimble as a “may call” witness, whose testimony is anticipated to rebut the versions of events described by Plaintiff and/or negate any potential adverse inference if Mr. Kimble is not called as a witness.

¹ See Exh. 1: Plaintiff’s Depo. Excerpts, pp. 116-117.

² Id., also Plaintiff’s Depo. Exh. 4.

³ Id. at 138, 143-44, 170-71.

⁴ Id. at pp. 173-74, 191.

7. During the course of preparation for trial, Defendants' counsel has learned from Mr. Kimble that he and the trial judge are second cousins. Specifically, Mr. Kimble has informed Defendants' counsel that he and the trial judge share a common great, great grandmother.

B. Applicable Authorities

8. Defendants and their counsel highly regard this tribunal and recognize their obligation to act at all times with candor to the Court. See, e.g., Alabama Rule of Professional Conduct 3.3.

9. 28 U.S.C. § 455(a) governs recusal and provides that, "Any justice, judge or magistrate of the United States shall disqualify himself in any proceeding in which his impartiality might reasonably be questioned."

10. This is an objective test, and a judge's decision regarding recusal is reviewed under the abuse of discretion standard. See McWhorter v. City of Birmingham, 906 F. 2d 674, 678 (11th Cir. 1990).

11. Judicial Canon 3, regarding impartiality, envisions recusal "in a proceeding in which the judge's impartiality might reasonably be questioned," including situations where:

(d) the judge or the judge's spouse, or a person related to or either within the third degree of relationship, or the spouse of such a person:

(iv) is to the judge's knowledge likely to be a material witness in the proceeding.

12. The Canon further states, "the degree of relationship is calculated according to the civil law system; the following relatives are within the third degree of relationship: parent, child, grandparent, grandchild, great grand parent, great grandchild, sister, brother, aunt, uncle, niece and nephew; the listed relatives include whole and half blood relatives and most step relatives." Judicial Canon 3(C)(3)(a).

13. Defendants make this disclosure out of an abundance of caution. Defendants do not suggest, based on the information presently available to them, that: (a) Mr. Kimble will be considered a “material witness” in this proceeding, and/or (b) that Mr. Kimble and the trial judge sit within a degree of relationship as defined by the applicable Judicial Canon.

Respectfully submitted this 31st day of March, 2008.

/s/ J. Trent Scofield
Timothy A. Palmer (PAL-009)
J. Trent Scofield (SCO-024)
T. Scott Kelly (KEL-053)
OGLETREE, DEAKINS, NASH,
SMOAK & STEWART, P.C.
One Federal Place, Suite 1000
1819 Fifth Avenue North
Birmingham, AL 35203-2118
Tel.: (205) 328-1900
Fax: (205) 328-6000
E-mail: timothy.palmer@odnss.com
E-mail: trent.scofield@odnss.com
E-mail: scott.kelly@odnss.com

Matthew K. Johnson
OGLETREE, DEAKINS, NASH,
SMOAK & STEWART, P.C.
P.O. Box 2757
Greenville, SC 29602
Tel.: (864) 271-1300
Fax: (864) 235-8806
E-mail: matthew.johnson@odnss.com

Pro Hac Vice Granted 05/15/07

Attorneys for Defendants Hyundai Motor
Manufacturing Alabama, LLC and
Hyundai Motor America, Inc.

CERTIFICATE OF SERVICE

I hereby certify that on the 31st day of March, 2008, I electronically filed the foregoing *Defendants' Disclosure Related to Familial Relationship Between Potential Witness and the Trial Judge* with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the following: W. Perry Hall, Vincent F. Kilborn, III, David Allen McDonald, Jeffrey Rayborn Sport, Timothy A. Palmer, T. Scott Kelly, and Matthew K. Johnson.

/s/ J. Trent Scofield

OGLETREE, DEAKINS, NASH,
SMOAK & STEWART, P.C.
One Federal Place, Suite 1000
1819 Fifth Avenue North
Birmingham, AL 35203-2118
Tel.: (205) 328-1900
E-mail: trent.scofield@odnss.com

Jerry Dees v. HMMA and HMA
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EXHIBIT 1

**Defendants' Disclosure Related to Familial
Relationship Between Potential Witness And The
Trial Judge**

FREEDOM COURT REPORTING

<p style="text-align: right;">Page 113</p> <p>1 was a piece of trash like I was that night. 2 It was embarrassing. Then I have to go to 3 church on Sunday and look at my friends and 4 everybody knows, he got fired because he's 5 supposedly sleeping on the job. Everybody 6 is looking at you. No, that ain't right. 7 Q. Where were you when you 8 realized that the notes weren't in your 9 jacket? 10 A. There at the shop when they 11 brought me my jacket, like I said before. 12 Q. How far is the shop from your 13 locker? 14 A. My locker was in the shop. We 15 was on the outside of the shop. I wasn't in 16 the shop. He walked me from my area, around 17 the office, said go on around here. And we 18 went around the side of the shop. 19 Q. Could you see your locker from 20 where you were outside the shop? 21 A. No, sir. Block wall. And I 22 had the security guards there telling me I 23 couldn't go nowhere.</p>	<p style="text-align: right;">Page 115</p> <p>1 taken care of. The first two years kicked 2 my butt. After that, I haven't had a 3 problem since. 4 Q. Okay. When was this you filed 5 bankruptcy? 6 A. I don't know. You'll have to 7 -- I don't know. I'll have to get back with 8 you on that. 9 Q. Right when you got back from 10 Germany, though? 11 A. No, sir. It wasn't right -- 12 It was like a year or two later. I don't 13 remember. 14 Q. Where were you working then? 15 A. I don't remember. 16 Q. During the time that you were 17 with Hyundai, did you file any sort of 18 complaints with the HR department? 19 A. Yes, sir. That's where I 20 started out. It, apparently, didn't do no 21 good. 22 Q. All right. Let's talk about 23 the complaints. Did you file any written</p>
<p style="text-align: right;">Page 114</p> <p>1 Q. Okay. And we're going to get 2 back to some of these issues, but I want to 3 cover some more basic stuff before we get 4 into it more deeply. 5 Have you ever filed any other 6 lawsuits? 7 A. No, sir. 8 Q. Have you ever filed any 9 administrative complaints like with the EEOC 10 or some sort of governmental entity? 11 A. No, sir. 12 Q. Have you ever been sued? 13 A. No, sir. 14 Q. And you may have shaken your 15 head, but I don't know if I heard you say 16 no -- 17 A. No. 18 Q. You've not filed any EEOC -- 19 A. I filed -- When me and my wife 20 first came home from Germany, probably two 21 years after being home, I filed bankruptcy 22 because I didn't manage my finances right, I 23 was used to being in the Army and everything</p>	<p style="text-align: right;">Page 116</p> <p>1 complaints? 2 A. No, sir. There wasn't no form 3 -- a format for filing written complaints. 4 And when we tried, they didn't want to hear 5 it. 6 Q. Okay. Did you ever talk to a 7 team relations representative about problems 8 you were having? 9 A. Several times. Lucas Cooner 10 and Will Ware. 11 Q. Will Ware? 12 A. Yes, sir. And Lucas Cooner. 13 Q. Anybody else with Hyundai? 14 A. Greg Kimball. 15 Q. Greg Kimball? 16 A. And Keisha. I don't know what 17 -- I don't remember what her last name is. 18 She is no longer there. She went to Kia. 19 They moved her to Kia, in the HR department. 20 Q. Can you think of anybody else 21 that you complained to? 22 A. Other than the managers and 23 assistant managers, the production manager</p>

29 (Pages 113 to 116)

367 VALLEY AVENUE
(205) 397-2397 BIRMINGHAM, ALABAMA 1-877-373-3660

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<p style="text-align: right;">Page 117</p> <p>1 who said he was over Prater, Craig Stapley 2 and Jim Brookshire both. 3 Q. And the production manager was 4 who? 5 A. Craig Stapley -- 6 Q. Stapler? 7 A. Stapley, S-T-A-P-L-E-Y. 8 Q. All right. And what other 9 members of management did you complain to? 10 A. That was about it, I reckon. 11 Q. Just to make sure I'm clear, 12 you never submitted anything in writing to 13 human resources? 14 A. There was no way to submit 15 anything in writing. When I complained they 16 didn't want to hear anything about it. I 17 submitted an e-mail to Greg Kimball about 18 Prater harassing me about my Guard duty, and 19 I never received a reply to the e-mail in 20 person or anything. 21 Q. When you say the last time 22 Greg Prater harassed you about your Guard 23 duty --</p>	<p style="text-align: right;">Page 119</p> <p>1 Q. What was your log-in? 2 A. I don't know. That was a year 3 ago, almost. I don't know. 4 Q. Okay. 5 A. I have no idea. I think it 6 was my clock number, I think. I'm not sure. 7 Q. Okay. Do you know when you 8 were assigned the log-in ID? 9 A. It wasn't long after I was 10 hired. I'm not sure. 11 Q. Was it after you were hired? 12 A. Yeah. 13 Q. Okay. So when you say you 14 sent an e-mail to Greg Kimball, would that 15 have been on an internal Hyundai system, 16 e-mail system? 17 A. Yes, sir. 18 Q. You didn't send it from 19 Yahoo -- 20 A. No, sir. 21 Q. -- or Google e-mail or 22 anything like that? 23 A. No, sir. It was on the</p>
<p style="text-align: right;">Page 118</p> <p>1 A. Before I got fired. 2 Q. Where did you send the e-mail 3 from? 4 A. The maintenance shop. 5 Q. All right. Was Greg Kimball 6 working at that time? 7 A. I don't remember. I think it 8 was on -- I don't remember if it was on day 9 shift or night shift. I think it was on 10 night shift. But the e-mail, I mean, that 11 was probably a month before I'd gotten 12 fired, and he had plenty of time to respond. 13 MR. SPORT: Matt, we'd like to 14 request that e-mail, because I don't think 15 we have that. 16 (Recess taken.) 17 Q. Mr. Dees, we're back on the 18 Record. 19 You had talked a minute ago 20 about an e-mail you sent to Greg Kimball. 21 Did you have a log-in ID and a password at 22 Hyundai? 23 A. Yes, sir.</p>	<p style="text-align: right;">Page 120</p> <p>1 Hyundai system. 2 Q. And it was while you were at 3 work? 4 A. Yes, sir. 5 Q. And do you remember where you 6 sent it from? 7 A. The maintenance shop. Stamp 8 and maintenance shop. 9 Q. Anybody else see you send it? 10 A. Drake Barefoot and someone 11 else was there. I don't remember who the 12 other one was. 13 Q. Do you remember what was in 14 it? 15 A. It was a -- I don't remember 16 the exact wording, no. I was complaining to 17 Mr. Kimball that Prater was still giving me 18 a hard time about my Guard duty, and I felt 19 that my job was in jeopardy for that reason. 20 Because even -- Like I said, even after my 21 unit sent the letter, I complained to HR at 22 least two more times and both times met with 23 negative results, and I was still getting</p>

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Powers, Nancy HMMA/HR

From: Dees, Jerry L. Jr HMMA/Plant Engineering

Sent: Tuesday, February 06, 2007 10:57 PM

To: Kimble, Greg HMMA/HR

Mr. Kimble,

I am writing to request a meeting with you regarding several issues that have arisen on my shift between Greg Prater, Kevin Hughes, and myself. I have talked to Human Resources on two separate occasions regarding Greg Prater and also filed a complaint on him through my National Guard Unit. There have been positive results from both meetings and once again I am seeking your help. I am currently working night shift but would greatly appreciate a meeting with you at your convenience. Thank you.

Leon Dees
Stamping Maintenance

**DEFENDANT'S
EXHIBIT**

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FREEDOM COURT REPORTING

<p style="text-align: right;">Page 137</p> <p>1 weekend, I said, I'm not going to be here. 2 He said, you're going to be here or you're 3 going to produce orders. I said, I'm going 4 to talk to HR. 5 Q. Okay. And Chris Weihe and 6 Drake Barefoot were in on that discussion? 7 A. The whole shift was. 8 Q. Okay. And tell me more. What 9 else did Greg Prater say -- Was that the 10 first time you had a problem with him about 11 your Guard duty? 12 A. That's where it all started, 13 yes. 14 Q. Okay. 15 A. Wasn't the first time. I'd 16 been blowing it off up to this point. 17 Q. Okay. Who did you go see -- 18 Well, did you go see -- 19 A. That was the first time I went 20 to HR and complained about it. 21 Q. Is that when you talked to 22 Keisha? 23 A. No, sir. That's when I talked</p>	<p style="text-align: right;">Page 139</p> <p>1 the very first time it happened. 2 Q. Okay. Let me go back to your 3 complaint. In paragraph eight there on page 4 three, it says that harassment of Dees by 5 Hyundai through Prater and Hughes began 6 almost immediately when Prater learned that 7 Dees was a member of the Alabama Army 8 National Guard and had served two tours in 9 Iraq. 10 Did Greg Prater -- How did 11 Greg Prater harass you because you were a 12 member of the Guard or because you served to 13 tours in Iraq? 14 A. He said that -- He made the 15 comment that he had been in Baghdad, he had 16 killed people, he had been a Navy SEAL, he 17 had been a tank commander. And when I asked 18 him where he was at in Baghdad, he says -- 19 when I asked him where he was in Iraq, I was 20 on the southside of Baghdad. I said, what 21 compound? I don't remember, there was so 22 many. I said, what was the name of the 23 compound? I don't remember. You know how</p>
<p style="text-align: right;">Page 138</p> <p>1 to Greg Kimball. He was the very first one 2 I talked to. I was told that he was the man 3 in charge of human resources, and that's who 4 I talked to. 5 Q. And you spoke to him face to 6 face? 7 A. Yes, sir. In his office. 8 Q. Okay. I mean, did you submit 9 anything in writing to him? 10 A. No, sir. 11 Q. Any e-mails at that time? 12 A. No, sir. 13 Q. I mean, did you just show up 14 in his office, did you schedule a meeting 15 with him? 16 A. I took my lunch break. I did 17 not leave my work floor -- 18 Q. What time was your lunch 19 break? 20 A. I don't remember. 21 Q. You were working the night 22 shift? 23 A. No. I was on the day shift</p>	<p style="text-align: right;">Page 140</p> <p>1 it was there was compounds all over the 2 southside of Baghdad. I said, no, there 3 wasn't, there was one, the one I lived in. 4 And I had put him on the spot 5 because I listened to him six or eight 6 months, him and Applegate come around and 7 Prater start running up and talking about 8 how he been in combat and killed so many 9 people. And Applegate was like, yeah, this 10 is my boy. And I got friends that died in 11 Iraq, I've killed people in Iraq, and my 12 friends served proudly in Iraq. And 13 Applegate and HR and everybody was making a 14 disgrace of what we had done. 15 Q. Well, what -- 16 A. When I went to them with my 17 complaints about my Guard duty, being forced 18 to produce military orders, they were like, 19 well, we'll look into the regulations. 20 Q. Did Applegate ever demean you 21 or try to diminish your service in Iraq in 22 any way? 23 A. He basically sat there the</p>

35 (Pages 137 to 140)

FREEDOM COURT REPORTING

<p style="text-align: right;">Page 141</p> <p>1 last -- said, well, I know Prater is a hero. 2 And he's -- like I said, basically he's my 3 man, he's my boy. 4 Q. When did he say that? 5 A. I don't remember the exact 6 date. I don't know. 7 Q. Okay. 8 A. Ask him. 9 Q. Other than saying good things 10 about Prater, did he say anything bad about 11 you or your service? 12 A. Directly, no. 13 Q. Indirectly what did he say? 14 A. Well, I -- I don't know. Like 15 I say, that's been a long time ago. 16 Q. All right. I need -- 17 A. And just -- You're asking a 18 question I can't answer. 19 Q. That's fine. If you can't 20 answer, that's all I need to know. 21 A. He'd make comments like: What 22 do you need to go down there for, all y'all 23 do is party.</p>	<p style="text-align: right;">Page 143</p> <p>1 when you do this duty is party? 2 A. To my face, yes. 3 Q. Okay. So did he and Prater 4 say that? 5 A. Prater said that in front of 6 everybody. 7 Q. Okay. Who did John Applegate 8 say it in front of? 9 A. Me. Like I said, I had to 10 have meetings -- If I complained to HR, I 11 had to go see Applegate. 12 Q. There are no witnesses to 13 Applegate saying all y'all do is party; 14 right? 15 A. Nope. 16 Did your lawyers interview him 17 too? 18 Q. Let me ask you about Keisha. 19 Did Keisha ever say anything to you about 20 you or your service in the Guard or Iraq? 21 A. No. She just said I had to 22 have orders before I could be deployed or 23 sent out.</p>
<p style="text-align: right;">Page 142</p> <p>1 Q. Who said that? 2 A. Prater -- 3 Q. I know. Let's talk about 4 Applegate. Let's try to do this in some 5 orderly fashion. 6 A. It's my depo, so I've got to 7 go at my own rate. 8 Q. All right. Let me ask you 9 this: Am I hearing you correctly that you 10 don't have anything to tell me about ways 11 that Applegate either directly or indirectly 12 said bad things about you or your service? 13 A. No. Just, like I said, that I 14 need to focus more on my job and not worry 15 about my Guard duty, and most of the time 16 all they do is party down there anyhow. 17 Q. Is that the worst thing that 18 Applegate said? 19 A. Yeah. Other than like I said, 20 just backing Prater up saying whatever 21 Prater decides is what I'm going with. 22 Q. And are you telling me that 23 John Applegate told you that all y'all do</p>	<p style="text-align: right;">Page 144</p> <p>1 Q. Did Greg Kimball ever say 2 anything about you or your service in the 3 Guard or Iraq or Korea or anywhere else? 4 A. No. The only thing he was 5 worried about was that Prater told us we 6 couldn't talk to human resources. He didn't 7 care about -- basically didn't care about 8 the complaint I was making about Prater 9 harassing me about my Guard. The only thing 10 he worried about was Prater telling we 11 couldn't talk to human resources. 12 Q. Because he disagreed with it? 13 A. Yeah. Because it's basically 14 telling him that he's not over Prater, that 15 Prater can do whatever he wants. That's the 16 only reason he got -- He could care less 17 whether Prater was harassing me about my 18 Guard service. 19 Q. What makes you think he could 20 care less? 21 A. Because nothing was done about 22 it, ever. 23 Q. Let me ask you this: Did</p>

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FREEDOM COURT REPORTING

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1 week, and then everything else would kick
2 back up. Nothing changed over all. I'm
3 currently working night shift, and we would
4 greatly appreciate a meeting at your
5 convenience. And a week or two later I was
6 fired.

7 **Q.** Now, if I could just look at
8 that. Again, this e-mail was sent on
9 February 6th of '07, does that sound right
10 to you?

11 **A.** Yes, sir.

12 **Q.** At that time, do you know
13 whether Greg Kimball was actively employed
14 or on leave from the plant?

15 **A.** No one had told us he wasn't
16 there. Like I said, I worked night shift.

17 **Q.** Did you know him personally?

18 **A.** Did I know him personally?
19 You mean away from the plant?

20 **Q.** No. I mean, did you know him?
21 You'd know him if he walked into the room
22 and talked to him?

23 **A.** Yes, sir.

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1 **Q.** Had you talked to him before?

2 **A.** Yes, sir.

3 **Q.** Had you talked to him
4 previously about any issues you may have had
5 with Greg Prater?

6 **A.** It wasn't Prater specifically.
7 Like I said before, he was the very first
8 person I talked to when I went to HR.

9 **Q.** Okay. But you didn't talk to
10 him about Prater specifically?

11 **A.** Well, about Prater and
12 Applegate and having a problem with my Guard
13 duty, yes, sir, I did.

14 **Q.** Okay. And what -- And I'm
15 just trying to think back to what we talked
16 about earlier this morning. I want to make
17 sure I'm right. That was what you had
18 testified to earlier, the year before you
19 got fired in the -- I think you testified in
20 the fall?

21 **A.** Do what now?

22 **Q.** The meeting -- That first
23 meeting you had with Greg Kimball.

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1 **A.** Yes, sir.

2 **Q.** Was that a meeting -- Was that
3 the year before you got terminated in that
4 fall period that you testified to?

5 **A.** Yes, sir.

6 **Q.** Okay. And where did that
7 meeting take place?

8 **A.** In Greg Kimball's office.

9 **Q.** Okay. And am I right that
10 neither you nor Greg Kimball produced
11 anything in writing after that meeting?

12 **A.** No, sir.

13 **Q.** And one of the things that it
14 says here on Defendant's Exhibit Number 4,
15 you'd indicate issues that have arisen on my
16 shift between Greg Prater, Kevin Hughes, and
17 yourself. What was the issue with Kevin
18 Hughes?

19 **A.** Like I stated earlier, Kevin
20 had a history of jumping on employees.

21 And --

22 **Q.** And when you say jumping on
23 employees, was that having to do with

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1 military duty or just his style of
2 management?

3 **A.** His style of management. I
4 mean, he had -- he had jumped on two or
5 three other employees, one of them twice.
6 He'd get up in their face and holler at them
7 and bow up on them and intimidate them. And
8 he did the same thing to me, and I asked
9 him, I said: Are you bowing up on me? And
10 he made some comment, and I turned around
11 and I left.

12 **Q.** Now, did that have anything to
13 do with your military service or your
14 reserve duties or anything like that?

15 **A.** That particular incident? I
16 -- I don't know. After the letter came in,
17 and I started having all these problems is
18 when Kevin started -- I mean, that's when he
19 started birddogging me.

20 **Q.** When who started birddogging
21 you?

22 **A.** Kevin Hughes.

23 **Q.** When did that start?

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<p style="text-align: right;">Page 173</p> <p>1 A. After -- Like I said, after my 2 letter from the unit came in. 3 Q. Okay. That's the letter from 4 Sergeant Barnes? 5 A. Yes, sir. 6 Q. Do you remember when that 7 letter came in? 8 A. As I stated earlier, no, sir. 9 Q. Do you recall who it was sent 10 to specifically? 11 A. Yes, sir. Like I stated 12 before, Greg Kimball. 13 Q. Okay. Did you ever talk to 14 Greg Kimball about whether or not he'd 15 actually gotten that letter? 16 A. No, sir, I did not. 17 Q. Do you have any evidence that 18 Greg Kimball or anybody else in Hyundai 19 management received the letter? 20 A. I said just John Applegate 21 saying: Don't worry about that letter, 22 we've seen it, something to that effect. I 23 don't remember exactly what his words were,</p>	<p style="text-align: right;">Page 175</p> <p>1 A. No, sir. The two separate 2 occasions was what it says, it was two 3 separate occasions. 4 Q. But I'm trying to figure out 5 when those two separate occasions were and 6 who were they with? 7 A. What do you mean? 8 Q. On February 6th you basically 9 say you had two separate occasions that you 10 had discussions with human resources; right? 11 A. Yes, sir. 12 Q. Okay. I want -- I'm just 13 trying to figure out if we can pin down when 14 those were and who you talked to. 15 A. It's like I stated earlier 16 this morning, I don't know the exact dates. 17 That was over a year ago. No, I don't. I 18 don't know specific dates, times, no, sir. 19 Q. Do you recall who they were 20 with? 21 A. Like I stated this morning, 22 the first meeting was with Greg Kimball -- 23 Q. Okay. That's one.</p>
<p style="text-align: right;">Page 174</p> <p>1 but, yeah, he admitted the letter was there. 2 Q. Do you remember when he said 3 that? 4 A. I think it was the second 5 meeting I had with him. I don't remember. 6 Q. Second meeting with Applegate? 7 A. Yeah. I mean, I don't know to 8 be honest. I can't say either way. 9 Q. How many meetings did you have 10 with Applegate? 11 A. I don't know. Two, three. 12 Whatever I said this morning. 13 Q. Okay. In your letter to Greg 14 Kimball that we've marked as Exhibit 4 you 15 say: I have talked to human resources on 16 two separate occasions regarding Greg Prater 17 and also filed a complaint on him through my 18 National Guard unit. 19 A. Yes, sir. 20 Q. Were the two separate 21 occasions the one time that you talked to 22 Greg Kimball and then when you talked to 23 Keisha?</p>	<p style="text-align: right;">Page 176</p> <p>1 A. -- in HR, and the last two I 2 believe was with Keisha. 3 Q. Okay. So other than Greg 4 Kimball and Keisha, you don't recall having 5 discussions with anybody in HR? 6 A. No, sir. 7 Q. No, sir, I'm wrong or no, sir, 8 you didn't have meetings with anyone else? 9 A. No, sir, I don't recall having 10 meetings with anyone else in HR. 11 Q. And did Keisha ever say 12 anything to you that in any way demeaned or 13 insulted your prior uniformed service? 14 A. No, sir. 15 Q. Do you have any reason to 16 think that Keisha in any way influenced the 17 decision to terminate your employment? 18 A. I have no idea who had any -- 19 I don't know. You're standing at work, 20 somebody comes up and tells you you're 21 fired, I mean -- 22 Q. Let me ask you this: Do you 23 have any information to suggest who was</p>

44 (Pages 173 to 176)

FREEDOM COURT REPORTING

<p style="text-align: right;">Page 189</p> <p>1 To your knowledge, was this</p> <p>2 done on March 26th originally?</p> <p>3 A. I have no idea.</p> <p>4 Q. Okay. Do you have any idea</p> <p>5 when he initially prepared it?</p> <p>6 A. No, sir.</p> <p>7 Q. All right. And was -- The</p> <p>8 first page of Exhibit 5 is to Mrs. Dees, I</p> <p>9 assume that's your wife?</p> <p>10 A. Yes, sir.</p> <p>11 Q. Was this faxed to some fax</p> <p>12 numbers of hers or at her office somewhere?</p> <p>13 A. Yes, sir.</p> <p>14 Q. Did you ask Sergeant Barnes to</p> <p>15 send it to your wife?</p> <p>16 A. Yes, sir.</p> <p>17 Q. And was it at her office?</p> <p>18 A. Yes, sir.</p> <p>19 Q. Where does she work?</p> <p>20 A. Peachtree Bank in Maplesville,</p> <p>21 Alabama.</p> <p>22 Q. So to your knowledge, Sergeant</p> <p>23 Barnes sent this to her bank?</p>	<p style="text-align: right;">Page 191</p> <p>1 A. I don't know.</p> <p>2 Q. Okay. Do you know if Sergeant</p> <p>3 Barnes ever called Hyundai's HR department</p> <p>4 for any reason?</p> <p>5 A. Not to my knowledge.</p> <p>6 Q. Okay. Had you provided him</p> <p>7 with Greg Kimball's name?</p> <p>8 A. Yes, sir.</p> <p>9 Q. Did you provide him with Greg</p> <p>10 Kimball's address or fax number or anything</p> <p>11 like that?</p> <p>12 A. Address to the plant.</p> <p>13 Q. Just the plant address?</p> <p>14 A. Yes, sir. Attention Greg</p> <p>15 Kimball.</p> <p>16 Q. Okay. In paragraph thirteen</p> <p>17 of your complaint you say: After the letter</p> <p>18 from Sergeant Barnes was sent to Hyundai,</p> <p>19 the incidences of harassment outlined above</p> <p>20 escalated.</p> <p>21 Let me ask you that: Is that</p> <p>22 accurate?</p> <p>23 A. Yes, sir.</p>
<p style="text-align: right;">Page 190</p> <p>1 A. Yes, sir.</p> <p>2 Q. And did she bring it home to</p> <p>3 you?</p> <p>4 A. Yes, sir.</p> <p>5 Q. And it looks like it was faxed</p> <p>6 on March 26th; is that accurate?</p> <p>7 A. Yes, sir.</p> <p>8 Q. And do you recall whether that</p> <p>9 was when you got it or not?</p> <p>10 A. Yeah. She got it that day,</p> <p>11 she brought it home that evening, yes, sir.</p> <p>12 Q. All right. Had you talked to</p> <p>13 Sergeant Barnes that day?</p> <p>14 A. I don't know. I don't know.</p> <p>15 Q. Okay. Do you remember talking</p> <p>16 to Sergeant Barnes asking him to send you</p> <p>17 some sort of memorandum for the Record or</p> <p>18 something telling what he had done in the</p> <p>19 past?</p> <p>20 A. Yes, sir.</p> <p>21 Q. Did he fax this to you on the</p> <p>22 same day or did this take place at a later</p> <p>23 time?</p>	<p style="text-align: right;">Page 192</p> <p>1 Q. How did they escalate?</p> <p>2 A. I mean, it went from every</p> <p>3 other day I was being called on the carpet.</p> <p>4 I mean --</p> <p>5 Q. Called on the carpet for what?</p> <p>6 A. Anything he could make up,</p> <p>7 they could make up, everything.</p> <p>8 Q. What would they make up?</p> <p>9 A. The daily reports, and I</p> <p>10 believe that was in there somewhere, where I</p> <p>11 didn't turn in my daily report where I</p> <p>12 actually filled it out but I worked over,</p> <p>13 and it was still in the book, I just didn't</p> <p>14 drop it off in the box. And I was being</p> <p>15 threatened on a write-up when there were</p> <p>16 several other team members on both shifts</p> <p>17 who hadn't turned in a daily report in over</p> <p>18 a month. That was just one example.</p> <p>19 Q. Well, during that period, were</p> <p>20 -- were you ever suspended for any reason?</p> <p>21 A. No, sir. They ignored their</p> <p>22 whole firing process. I was never written</p> <p>23 up, to my knowledge.</p>

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